

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 Seventeenth Street, N.W.
Washington, D.C. 20429

Sent via email to: comments@fdic.gov

Re: RIN 3064-AD09; Proposal to Amend Regulations for Risk-Based Premiums; 71 Federal Register 41910; July 24, 2006

Dear Mr. Feldman:

The Federal Deposit Insurance Corporation (FDIC) has issued a Notice of Proposed Rulemaking ("Proposal") to amend its regulations on risk-based assessments by creating a new risk scoring system for banks that are well capitalized and well managed. I am principally concerned about one aspect of the Proposal: assignment of all banks that are in their first seven years of operation ("*de novo*" banks) to the top risk rating within the category of well capitalized and well managed banks. I disagree with this provision because it fails to consider the analysis of any *de novo* banks by performance based examinations and the provision does not encourage safe and sound operations among *de novo* banks.

Segmentation of banks by age, in and of itself, is inconsistent with today's examination standards, and sends the industry and public the wrong message. I unequivocally welcome the FDIC's evaluation of any bank's performance so that deposit insurance premiums commensurate with the safety and soundness of the bank can be assigned. However, I believe performance based criteria should always be the basis of such an evaluation. Performance based conclusions are the foundation of an objective bank supervisory process. Applying a different standard to *de novo* banks is inconsistent with this long standing examination approach by bank regulatory agencies. While there may be some degree of subjectivity within the examination process, banks are never assigned CAMELS ratings, or any other category ratings, without performance based evaluations. The current FDIC Proposal will segment the entire population of *de novo* banks into one category without the use of examiner based conclusions of bank performance.

There are also important public policy reasons not to apply separate treatment to *de novo* banks. If the public believes the FDIC considers all banks chartered within the last seven years are less safe, confidence in all *de novo* banks will be undermined. As such, there is a degree reputation risk transferred to *de novo* banks by this Proposal, which is not quantified within the Proposal. Moreover, requiring *de novo* banks, regardless of condition, to pay higher premiums would put them at a competitive disadvantage relative to older banks. While these aspects may be considered minor, both present challenges to younger banks and may have associated expenses. Most new banks do have one common characteristic; we have limited resources.

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Using a preset measure to assess premiums does not adequately recognize the many quantitative and qualitative aspects between today's new banks. For instance, new banks have various levels of initial capital. New banks operated in business diverse geographies, ranging from economically vibrant to economically stagnant. Market areas of new banks have characteristics such as underserved, overbanked or consolidating, where locally-operated banks have been acquired by larger, out of area financial services companies. *De novo* bank management may include senior executive officers that have held their same positions at consistently well managed and well capitalized institutions or individuals who may have much less experience.

These factors are all important quantitative and qualitative elements of the charter approval process. They sometimes contribute to conditional approvals, or other specific requirements imposed on a *de novo* bank over a three year period. The Proposal, in effect, groups all *de novo* banks into one risk category without an appreciation or association to these characteristics. The bank charter approval process is a reasonable and equitable system, and it should be the appropriate methodology to assign the initial risk category for deposit insurance premiums.

Over a seven year term, the Proposal will group underperforming *de novo* banks with overachievers into one deposit insurance premium category. This is not a balanced approach over a significant period of time and it certainly does not recognize the operating differences between banks. All banks have varying levels of performance, resulting in an objective assignment of risk the institution poses to the Bank Insurance Fund through the CAMELS ratings or other regulatory actions. Furthermore, new banks typically have a shorter timeframe between examinations which enables the regulatory agencies to promptly identify adverse trends. Often, this evaluation includes measuring actual financial performance against pro forma financial statements that were submitted within the bank application.

However, the Proposal defends ignoring the financial performance of *de novo* banks' by stating that "financial information for newer institutions tends to be harder to interpret and less meaningful" (page 41927). It should not be harder to interpret new bank financials because the FDIC can review actual bank financial performance against the pro forma financial statements as presented within the bank charter application. *De novo* banks are prepared to be evaluated by this measure and should be given the ability to quantify variances between actual performance and projections. Also, the FDIC risk rating system includes many definitive and objective assessment criteria. *De novo* banks are evaluated on capital levels, the loan portfolio, volatile liabilities and risk management systems in addition to financial performance. It is a more reasonable approach to assess a premium commensurate with identified ratings of risk of these characteristics than financial performance alone.

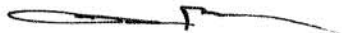
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Lastly, the Proposal also defends disparate treatment for *de novo* banks by citing past data that "new institutions have a higher failure rate than established institutions" (page 41927). The ABA has reported that over 900 banks were chartered in the last seven years, and not one of these banks has failed.

This is strong evidence that the data is out of date and may not relate to today's *de novo* banks. Many of the *de novo* banks are now organized and led by experienced bankers in markets where they had operated for years. Given the extensive consolidation in the industry, many *de novo* banks are benefiting by hiring seasoned bankers who became available following acquisitions of their former institutions. It is not surprising that today's *de novo* banks achieve profitability faster than in the past and that there has been no bank failure within the population of the banks chartered in the last seven years.

Thank you for the opportunity to provide input on this issue.

Sincerely,



Charles O. Hall
President and Chief Executive Officer
Atlantic Pacific Bank